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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,465	12/05/2000	Barbara P. Wallner	10274-006002	7066

7590

03/07/2002

LOUIS MYERS
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

EXAMINER

GAMBEL, PHILLIP

ART UNIT

PAPER NUMBER

1644

DATE MAILED: 03/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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09/730465

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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1644

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DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 5/21/01

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-54 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-54 are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

Serial No. 09/730465
Art Unit 1644

DETAILED ACTION

1. The location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1644, Technology Center 1600.

2. This application is in compliance with the Sequence Rules.

3. Applicant's amendment, filed 5/21/01 (Paper No. 4), has been entered.
Claims 1, 4, 5, 7, 8-12, 14-22, 24-26, 31-36, 38 and 44 have been amended.

Claims 1-54 are pending.

4. Formal drawings have been submitted which fail to comply with 37 CFR 1.84.
Please see the enclosed form PTO-948.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

A. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

B. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, MUST be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings MUST be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.185(a). Failure to take corrective action within the set (or extended) period will result in ABANDONMENT of the application.

Serial No. 09/730465

Art Unit 1644

5. This application contains claims directed to the following patentably distinct species of the claimed Invention: wherein the agent is:

- A) soluble CD2,
- B) soluble LFA-3,
- C) CD2-specific antibodies,
- D) LFA-3-specific antibodies,
- E) CD2 linked to LFA-3-specific antibodies or
- F) soluble LFA-3 linked to CD2-specific antibodies.

These species are distinct because their structures and modes of action are different.

Applicant is invited to clarify the metes of dependent claims 33 and 34. For example, it is not clear whether applicant intends to claims multimers of the same molecule (e.g. CD2 linked to CD2, LFA-3-specific antibodies linked to LFA-3-specific antibodies) or is there a distinction of CD2 linked to LFA-3-specific antibodies or LFA-3-specific antibodies linked to CD2, given the construction of the claims.

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic, for example.

6. This application contains claims directed to the following patentably distinct species of the claimed Invention: wherein the skin condition is:

- A) psoriasis,
- B) atopic dermatitis,
- C) cutaneous T cell lymphoma,
- D) mycosis fungoides,
- E) allergic and irritant contact dermatitis,
- F) lichen planus,
- G) alopecia areata,
- H) Pyoderma gangrenosum,
- I) vitiligo,
- J) ocular cicatricial pemphigoid, or
- K) urticaria.

These species are distinct because the pathological conditions differ in etiologies and therapeutic endpoints.

Applicant is invited to clarify the metes of dependent claims 33 and 34. For example, it is not clear whether applicant intends to claims multimers of the same molecule (e.g. CD2 linked to CD2, LFA-3-specific antibodies linked to LFA-3-specific antibodies) or is there a distinction of CD2 linked to LFA-3-specific antibodies or LFA-3-specific antibodies linked to CD2, given the construction of the claims.

Serial No. 09/730465

Art Unit 1644

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic, for example.

7. Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.


8. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gambel whose telephone number is (703) 308-3997. The examiner can normally be reached Monday through Thursday from 7:30 am to 6:00 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Serial No. 09/730465
Art Unit 1644

Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.



Phillip Gambel, PhD.
Primary Examiner
Technology Center 1600
March 7, 2002